



# Benin

Population <sup>1</sup>	11,485,048
Area (km <sup>2</sup> ) <sup>1</sup>	114,760
GDP per capita (USD) <sup>1</sup>	1,240.82
TES (Mtoe) <sup>2</sup>	5.24
Energy intensity (toe/10 <sup>3</sup> 2015 USD) <sup>2</sup>	0.54
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>3</sup>	7.2

Data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2021<sup>4</sup>

Target industry	Number of projects and deals	Project CapEx and deal value (million EUR) by source country
Electric power generation, transmission and distribution	2 new projects	Germany: 1 FF project of 213.2 mEUR United Arab Emirates: 1 RE project of 15.8 mEUR

Sources:

1. The World Bank 2018
2. ©IEA (2021), World Energy Balances (<https://www.iea.org/data-and-statistics>). All rights reserved.
3. ©IEA (2021), CO<sub>2</sub> Emissions from Fuel Combustion (<https://www.iea.org/data-and-statistics>). All rights reserved.
4. Orbis Crossborder Investment (2021), Bureau Van Dijk. Benin is the destination country of the investment. Data represents the period 1 April 2015 - 1 April 2021 (accessed on 1 July 2021). For more information see Annex II of this report.

RE: Electricity generation from renewable resources

FF: Electricity generation from fossil fuels

Benin’s overall risk level against the assessed areas is **low**.

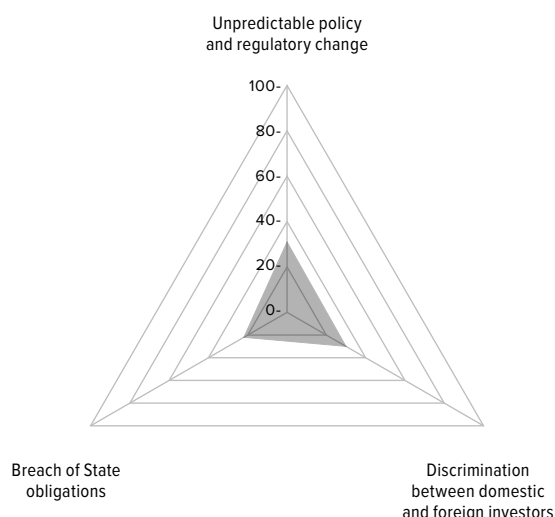
Of the three risks assessed in EIRA, *breach of State obligations* is lower compared to *discrimination between domestic and foreign investors* and *unpredictable policy and regulatory change*.

Benin’s performance is good on two of the EIRA indicators, and it is moderate on two indicators. *Management of decision-making processes* is the highest-scoring indicator this year at 80, followed by *rule of law* at 78. Its score on *regulatory environment and investment conditions* has improved by eight points and stands at 53, while *foresight of policy and regulatory change* is at 49.

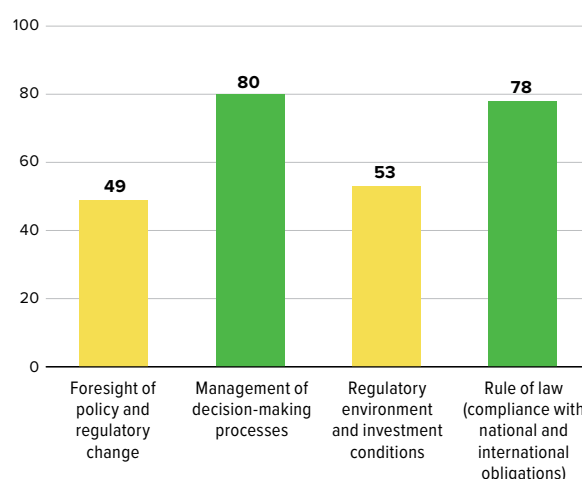
On a more detailed level, Benin’s overall sub-indicator performance is good. In 2021, *institutional governance* is the highest-scoring sub-indicator at 88, followed by *management and settlement of investor-State disputes* at 80. It has a good score of 75 on *respect for property rights*. On *transparency* the score has increased from 68 to 72, while *communication of vision and policies* is at 65. Its score on the sub-indicators *regulatory effectiveness* and *restrictions on FDI* is 61 and 45, respectively. *Robustness of policy goals and commitments* is the lowest-scoring sub-indicator at 34.

While Benin has the relevant policies and measures in place, there is potential for improvement. Attention should be given to increasing the robustness of its policy goals and commitments.

## RISK LEVEL



## INDICATOR PERFORMANCE



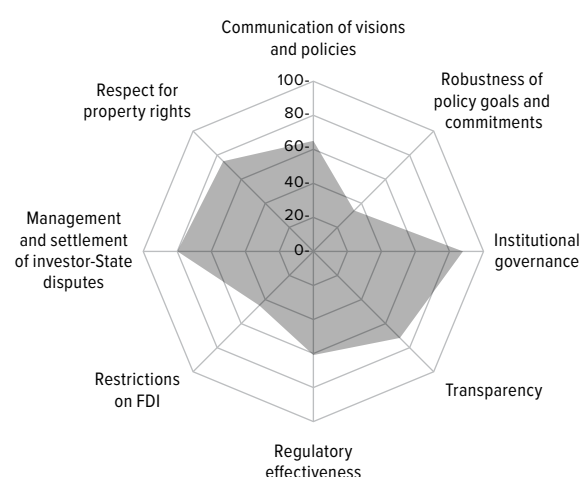
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2019	2020	2021
Unpredictable policy and regulatory change	34	32	31
Discrimination between domestic and foreign investors	31	33	30
Breach of State obligations	22	22	22

INDICATORS	2019	2020	2021
Foresight of policy and regulatory change	49	49	49
Management of decision-making processes	72	78	80
Regulatory environment and investment conditions	59	45	53
Rule of law	78	78	78

## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The Government Action Programme 2016-2021 (GAP 2016-2021) aims to improve energy security and ensure reliable electricity supply across Benin.

In April 2020, Law no. 2020-05 introducing the new Electricity Code of Benin came into force.

Benin ratified the Paris Agreement in 2016 and submitted an updated version of its NDC, which covers the energy sector.

### STRENGTHS

The Government of Benin is tapping into the country's renewable energy potential to secure affordable and universal energy access for its population. The 2020 Electricity Code has liberalised the power sector, improved licensing procedures, and made renewable power generation investments commercially viable. The Millennium Challenge Account-Benin II (MCA-Benin II) and the Off-Grid Clean Energy Facility, alongside the Government, have dedicated resources and expertise to mini-grid projects. In November 2020, construction began on the DEFISOL solar power plant, funded by the EU and France. The DEFISOL plant will supply the country with 35 GWh of electricity a year and reduce annual GHG emissions by 23,000 tonnes of CO<sub>2</sub> over 25 years.

The National Electricity Regulatory Authority (ARE) and the Agency for Rural Electrification and Energy Management (ABERME) are responsible for the implementation and appraisal of power projects. The Government has set up a rural electrification and renewables fund to finance the extension of the distribution networks and the installation of off-grid electrification solutions.

### AREAS FOR IMPROVEMENT

The Government has made progress in implementing GAP 2016-2021, particularly on facilitating the development of a competitive energy market. It is now a timely moment for the Government to prepare a long-term energy strategy comprising measurable policy targets and implementation plans. This approach is especially relevant to the scaling up of renewable energy and the growth of the country's nascent off-grid sector as both are essential to secure energy independence and ensure 100% electricity access.

The 2020 Electricity Code defines the roles and responsibilities of the State agencies implementing and monitoring the country's energy strategy. However, the Government should further streamline the monitoring process and coordinate the Code's implementation by rationalising and operationalising it through secondary legislation and plans.

## Management of decision-making processes

### QUICK FACTS

The Ministry of Energy is responsible for the overall energy policy formulation process.

The Ministry of Living Conditions and Sustainable Development is in charge of the country's environmental issues, including its NDC implementation.

Law no. 2019-06 of 2019 introduces the new Petroleum Code.

Law no. 2020-02 of 2020 introducing the Investment Code has come into force.

### STRENGTHS

The Government's efforts to attract private investment in support of economic growth has culminated in the adoption of the 2020 Investment Code. The new Code overhauls the institutional framework by abolishing the requirement of project approval by the Minister of Planning. Instead, three institutions are now in charge of investment promotion. More specifically, the National Agency in charge of investment promotion is a one-stop shop that facilitates the administrative formalities on the approval of projects linked to the 2020 Investment Code. The Investment Control Commission verifies the conformity of investments with the authorisation regime, while the Inter-ministerial Committee monitors and evaluates all investments that benefit from the advantages provided in the new Investment Code.

As with the Petroleum Code, the 2020 Investment Code seeks to reinforce transparency in the public sector. Hence, it strictly prohibits any act of corruption during or after the establishment of an investment. Moreover, it does not allow investors to use funds derived from unlawful activities. The 2020 Electricity Code crystallises the ARE's legal obligation to publish all tariff-related information. Also, it guarantees the participation of private entities, consumers associations and professional organisations in the development of policies and laws related to the electricity sector.

### AREAS FOR IMPROVEMENT

Stakeholder engagement in the decision-making processes ensures the proposed regulation's legitimacy and reinforces ownership and responsibility in implementation. It is, thus, reiterated that the Government of Benin should adopt an overarching law on public consultation to facilitate cross-sector dialogue, prevent conflict between the public and the Government and increase citizens' confidence in public institutions.

## Regulatory environment and investment conditions

### QUICK FACTS

The Ministry of Energy is responsible for the development and oversight of the electricity sector.

The petroleum sector's governance is the responsibility of the Ministry of Water and Mines.

The ARE's role is enshrined in Decree no. 2009-182 on the Creation, Attributions, Organisation and Functions of the ARE.

### STRENGTHS

The 2020 Electricity Code makes the ARE's decision-making organ, the National Council, leaner by reducing its membership from nine to seven. Five of its members will now be selected through an open competition, and their mandate will be time-bound and renewable only once. Similar changes have been introduced to the appointment of the ARE's Executive Secretary, who manages its daily activities. The ARE's regulatory responsibilities have also grown since it is now responsible for issuing permits to off- and mini-grid promoters. Moreover, it is required to set and publish cost-reflective tariffs for renewable energy projects in advance.

The adoption of the 2020 Electricity Code eliminates the National Electric Power Company's (SBEE) market monopoly and opens up the production, distribution, transmission and marketing of electricity to private investors. This development is in line with the Government's overall privatisation scheme, which includes targeted divestiture programmes such as the private management of the SBEE through 2023. The 2020 Investment Code introduces appealing incentives and benefits such as exemptions on corporate income tax and income tax deposit. Moreover, it sets the groundwork for a more significant role of investors in national development plans. To increase the skills of the country's workforce, the Government grants incentives to investors if they contribute to the training of local employees and to technology transfers.

### AREAS FOR IMPROVEMENT

The Government has improved the ARE's status considerably by setting criteria and an open selection procedure for its members and restricting their appointment to a one-time renewal. However, it may take further steps to safeguard the appropriate, sufficient and autonomous operation of the ARE, including complete budgetary independence with funds deriving exclusively from its market operations.

## Rule of law

### QUICK FACTS

Benin ratified the Convention on the Settlement of Investment Disputes between States and Nationals of other States in 1966 and acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1974.

Benin is a Member State of the OHADA. In 2017, OHADA revised the Uniform Act on Arbitration to include provisions on commercial and investment arbitration.

### STRENGTHS

In 2020 and 2021, the Government carried out numerous reforms in the justice sector. In April 2020, Law no. 2020-08 on Modernisation of Justice in Benin was adopted to improve the transparency of domestic judicial proceedings, ensure the speedy disposal of cases, and facilitate access to justice. The said Law modifies the Code of Civil, Commercial, Social, Administrative and Accounts Procedure to ensure better compliance with the rule of "reasonable time" in case management and provides for the use of innovative digital tools. The 2020 Investment Code introduces an avenue to resolve investor conflicts before they precipitate into full-scale disputes. The Code states that difficulties in the interpretation of its provisions may be settled by instructions (circulaires) from the Interministerial Committee for Investment Promotion on the proposal of the National Agency in charge of investment promotion. Parties can submit a dispute for arbitration to a forum of their choosing, such as the Arbitration, Mediation and Conciliation Center of the Chamber of Commerce and Industry of Benin (CAMEC), the Common Court of Justice and Arbitration of OHADA (CCJA-OHADA), the Multilateral Investment Guarantee Agency or ICSID.

Guarantees against unlawful expropriation and arbitrary nationalisation are intact in the 2020 Investment Code. Law on Modernisation of Justice in Benin reinforces the land ownership regime by reducing the formalities governing the exercise of legal remedies in applying the Land and State Code. IP rights are protected under national laws, BITs and international treaties, such as the Bangui Agreement.

### AREAS FOR IMPROVEMENT

Following the enactment of Law on Modernisation of Justice in Benin and the 2020 Investment Code, the Government must now implement these important legislative initiatives. Robust and systematic implementation will require political commitment as well as human and financial resources.

# IMPLEMENTATION STATUS



## Benin

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2021
<b>Indicator 1</b>		
	Introduce market-based incentive instruments to promote the deployment of domestic renewable energy resources.	<b>Work ongoing.</b> The 2020 Electricity Code boosts private investment in renewable energy. During 2020-2021 some solar projects were commenced, including the DEFISOL solar power plant, funded by the EU and France. The DEFISOL plant will supply the country with 35 GWh of electricity a year and reduce annual GHG emissions by 23,000 tonnes of CO <sub>2</sub> a year over a 25-year period.
2019	Define the responsibilities of the bodies conducting policy monitoring tasks and those implementing the national energy policy.	<b>Work ongoing.</b> The 2020 Electricity Code provides for a clearer demarcation of roles and responsibilities between various authorities involved in the monitoring and implementation of the national energy policy.
	Introduce a policy review process that allows for periodic assessments.	<b>Work ongoing.</b> The 2020 Electricity Code provides for periodic revision of the renewables and energy efficiency policy.
2021	Review the national energy strategy in a timely fashion and introduce in it measurable policy targets (GAP 2016-2021).	<b>Improvement suggested in 2021.</b> Status will be updated in 2022.
<b>Indicator 2</b>		
2019	Adopt an overarching legal framework that requires the Government to undertake public consultations before adopting new laws and regulations.	<b>Work ongoing.</b> Benin adopted its Electricity Code in 2020, requiring the energy regulator to publish all tariff-related information and ensure public participation in framing electricity sector regulations.
<b>Indicator 3</b>		
	Reinforce the functional and institutional autonomy of the Electricity Regulatory Authority (ARE).	<b>Work ongoing.</b> The 2020 Electricity Code reinforces the ARE's independence and liberalises generation, transmission and distribution of electricity.
2019	Integrate local content requirements in the country's overall development strategy and set up an agency for its transparent and efficient administration.	<b>Fully implemented.</b> The 2020 Investment Code links the granting of investment incentives to the training and education of local employees.
	Designate a competent authority to regulate competition in the energy sector.	<b>Fully implemented.</b> Under the new Electricity Code, the ARE must ensure healthy and legal competition in the sector and protect the interests of consumers and the State.
<b>Indicator 4</b>		
2019	Introduce frameworks to examine cases and the delivery of judgements.	<b>Work ongoing.</b> Law No. 2020-08 on Modernisation of Justice in Benin was adopted with the aim to improve transparency and increase the speed of court proceedings.